

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 99-111

December 3, 1999

MAINE PUBLIC UTILITIES COMMISSION  
Standard Offer Bidding Procedure and  
Selection (Bangor Hydro-Electric Company)

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order, we reject the second round of bids to provide standard offer service for all classes in the service territory of Bangor Hydro-Electric Company (BHE). All the bids are unreasonably high or non-conforming. We direct BHE to provide standard offer service to all customer classes. We establish standard offer rates for all customer classes of BHE at 4.5¢ per kWh. We also discuss the process by which BHE should select the wholesale supply for standard offer service and the need to increase standard offer rates in the future depending upon the cost of the wholesale supply arrangement or arrangements made by BHE.

**II. BACKGROUND**

During its 1997 session, the Legislature enacted comprehensive legislation to restructure Maine's electric utility industry. P.L. 1997, ch. 316 (codified at 35-A M.R.S.A. §§ 3201-3217). That legislation provides that all electricity consumers in Maine will have the right to purchase generation services from competitive electricity providers beginning March 1, 2000. The Legislature recognized that, at least initially, not all consumers would want or be able to obtain generation services from the competitive market. Accordingly, the Legislature required standard offer service to be available for all electricity consumers who do not otherwise obtain service from the competitive market. 35-A M.R.S. § 3212. The Legislature decided that the providers of standard offer service would be chosen by the Commission through a bid process and directed the Commission to promulgate rules to govern the bid and selection process.

Through Orders issued April 22, 1998 and June 29, 1999, the Commission adopted Chapter 301 of its rules. Chapter 301 governs standard offer service and the provider selection process. Docket Nos. 97-739, 98-576. Pursuant to Chapter 301, there is a separate bid process for each utility service territory. Within each territory, bidders may bid on three separate customer classes (residential and small non-residential, medium non-residential, and large non-residential). Bidders are required to commit to a fixed price for a 12-month period and must post security to ensure they are financially capable of providing standard offer service at their stated price.

Consistent with the provisions in Chapter 301, on August 2, 1999, the Commission issued three RFBs: one each to provide standard offer service to

customers of BHE, Central Maine Power Company (CMP) and Maine Public Service Company (MPS). On October 1, 1999 the Commission received proposals in response to the RFBs. The proposals submitted in response to the RFBs were reviewed by the Commission, its staff and a consultant retained to assist with the process.

On October 25 1999, the Commission issued an Order that rejected the bids received for the service territories of Central Maine Power Company (CMP) and BHE, terminated that RFB process, and initiated a new selection process for standard offer providers for CMP and BHE customers. On October 26, 1999, a letter was sent to all bidders in the initial RFB process and to all bidders in the concurrent utility RFB processes for the sale of each utility's generation entitlements pursuant to Chapter 307 of the Commission's rules. The October 26 letter explained the new bidding and selection process and invited the bidders' participation.

On November 8, 1999, the Commission received proposals in response to the new solicitation for the service territories of CMP and BHE. The proposals were reviewed by the Commission, its staff and consultant. The results of this review for the BHE<sup>1</sup> service territory are described below.<sup>2</sup>

### III. DECISION

#### A. Rejection of Bids

Pursuant to the new selection process, letters were sent to all bidders in the initial CMP, BHE and MPS standard offer processes and to all bidders in the utilities' concurrent chapter 307 stand-alone auctions. The Commission structured the new selection process to allow bidders to submit proposals at standard offer prices that would not exceed those provisionally adopted for MPS in the October 25 Order. The Commission also permitted a bidder to condition its proposal to provide standard offer service on the selection of the bidder's proposal to purchase the utility's chapter 307 entitlements. None of the linked bids conformed sufficiently with Chapter 301, and attempts to clarify such bids in a way to make them conform were unsuccessful.

Pursuant to our authority under chapter 301, section 8(D), we reject all the bids received for the BHE service territory. As noted above, the linked bids did not conform with the terms and requirements of chapter 301. We find the other bids to be unreasonably high, and thus not in conformance with the terms we established in our second selection process described in our October 25, 1999, Order in this Docket.

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<sup>1</sup> In a separate order issued today in this same docket, we determine the result for CMP.

<sup>2</sup> Because contracts and other arrangements must still be completed, we are not at this time releasing information about non-winning bids. We intend to do so after the contracts and other arrangements are completed, which should occur in about two weeks.

In our October 25 Order, we discussed some of the reasons that might explain the price level of the bids received. Whatever the reasons, we find that BHE standard offer customers will be better served by obtaining service, at least for the near term, from the wholesale market rather than the retail market as it presently exists for the BHE service territory

B. BHE Procurement

Since we have rejected all bids, pursuant to section 8(D) of Chapter 301, we direct BHE to provide standard offer service through wholesale arrangements with suppliers or from the spot market until the Commission acts in the future to designate standard offer providers. We will confer with BHE officials at the earliest possible opportunity to discuss the means that BHE should use to procure wholesale power with which to provide standard offer service in its service territory.

C. Administratively-set Standard Offer Prices

In our October 25 Order, we sought comments from interested persons on a range of subjects, including how the Commission should handle setting standard offer prices in the event that all standard offer bids were again rejected. There was a general consensus among commenters that the Commission must establish standard offer prices on or about December 1 so that competitive providers would have sufficient time to market their services before March 1, 2000. To meet this reasonable expectation on the part of providers, we will administratively set the standard offer service prices for the BHE service territory, rather than wait until BHE has the opportunity to make a wholesale arrangement.

In the companion case in this docket involving Central Maine Power Company, we faced a similar problem. For CMP, procurement of wholesale power for standard offer service is needed for the medium and large non-residential classes. Because the CMP residential and small non-residential class of customers will receive standard offer service from a provider chosen through the bid process, and because, based on the limited evidence available from the MPS bid pattern, the cost of serving the larger non-residential classes should be no higher than the cost of serving the residential and small non-residential classes, we set the standard offer price for CMP's medium and large non-residential classes at the same level as its residential and small non-residential market-based bid.

We could set BHE standard offer prices using either the market-based CMP residential and small non-residential class bid or the market-based MPS standard offer class bids. Even though both the CMP or MPS bids are market-based, and therefore may provide a logical basis for predicting the wholesale arrangements that BHE may achieve, the fact remains that we have not received similar retail bids for BHE. Therefore, we decline to use CMP or MPS bids as BHE's standard offer price.

Because, BHE will be entitled to full cost recovery pursuant to Chapter 301, section 8(D), we prefer a more cautious approach. To the extent our administratively-set standard offer prices diverge from the power supply costs incurred by BHE, deferrals of costs (or benefits) will be accumulated and owed to shareholders (or customers). Thus, we wish to set a standard offer price for the BHE service territory at a level that offers a reasonable likelihood that significant cost deferrals will not be accumulated.

For administrative convenience, we will set one standard offer price for all three categories of customer classes in the BHE service territory. We find that a standard offer price of 4.5¢ per kWh represents a price that is close to those market-based prices in the other Maine utility service territories with the proper level of contingency that will likely avoid the accumulation of large cost deferrals. We note that 4.5¢ approximates the average standard offer price set by the Connecticut Commission for Connecticut Light & Power Company through a recent bid procedure.

The wholesale procurement of standard offer service by BHE will remain in effect for one year, i.e. until March 1, 2001. We will institute another bidding procedure for standard offer service in the BHE territory at the same time that we will also seek bids for standard offer service in the MPS and CMP territories beginning on March 1, 2001.

We will re-examine our 4.5¢ per kWh standard offer price after BHE has procured the power supply necessary to provide service to these customers. If the standard offer price is substantially lower than BHE's cost to provide service, we may increase the standard offer prices to more closely reflect BHE's costs so that large deferrals are avoided and the prices against which marketers have to compete are not artificially low. However, to provide predictability for marketers who will compete with the standard offer price, we will not lower the standard offer price for the 12-month standard offer period, if BHE can obtain the supply it needs at a lower cost, the difference will be returned to consumers through future ratemaking adjustments.

Dated at Augusta, Maine, this 3rd day of December, 1999.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission to the Maine Supreme Judicial Court, sitting as the Law Court, is not available, as provided in 47 U.S.C. § 252(e)(6).
3. Review of this discussion is available to an aggrieved party by bringing an action in federal district court, as provided in 47 U.S.C. § 252(e)(6).

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